

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2011-256-C - ORDER NO. 2011-760
OCTOBER 18, 2011

IN RE: Application of Rosebud Telephone, LLC for)	ORDER GRANTING
a Certificate of Public Convenience and)	CERTIFICATE AND
Necessity to Provide Resold and Facilities-)	APPROVING FLEXIBLE
Based Local Exchange and Interexchange)	REGULATION AND
Telecommunications Services in the State of)	ALTERNATIVE
South Carolina and for Flexible Regulation)	REGULATION
and for Alternative Regulation)	

This matter comes before the Public Service Commission of South Carolina (“Commission”) by way of the Application of Rosebud Telephone, LLC (“Rosebud” or the “Company”) requesting a Certificate of Public Convenience and Necessity authorizing it to provide resold and facilities-based local exchange and interexchange telecommunications services within the State of South Carolina. The Company’s Application was filed pursuant to S.C. Code Ann. § 58-9-280 (Supp. 2010) and the rules and regulations of the Commission. By its Application, Rosebud also requests flexible regulation of its local exchange service offerings pursuant to Order No. 98-165 in Docket No. 1997-467-C, alternative regulation of its business interexchange services consistent with Commission orders, and waiver of certain Commission regulations.

The Commission’s Clerk’s Office instructed Rosebud to publish, one time, a Notice of Filing in newspapers of general circulation in the areas of the state affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the Application of Rosebud and of the manner and time in which to file the appropriate

pleadings for participation in the proceeding. Rosebud complied with this instruction and provided the Commission with proofs of publication of the Notice of Filing. A Petition to Intervene was filed by the South Carolina Telephone Coalition (“SCTC”). Subsequent to the intervention, Rosebud and SCTC reached a Stipulation, attached hereto as Order Exhibit 1.

A hearing was convened on September 26, 2011, at 10:30 a.m. at the Commission in Columbia, South Carolina, before F. David Butler, Hearing Examiner. Rosebud was represented by John J. Pringle, Esquire. The Office of Regulatory Staff (“ORS”) was represented by Shannon Bowyer Hudson, Esquire. The South Carolina Telephone Coalition did not appear at the hearing.

Roger P. Stricklett, Vice-President of Sales & Marketing for the Company, testified via video conference and adopted the direct testimony of Mary Ann Mitchell in support of the Company’s Application. The record reveals that Rosebud is a limited liability company (LLC) organized under the laws of the State of Texas and that it is registered to transact business in South Carolina as a foreign LLC. According to Mr. Stricklett, the Company primarily seeks to provide local exchange services to independent payphone service providers, but requests a full range of interexchange and local exchange authority from this Commission. Mr. Stricklett explained the Company’s request for authority, and the record further reveals the Company’s services, operations, and marketing procedures. Mr. Stricklett also discussed Rosebud’s technical, financial, and managerial resources to provide the services for which it seeks authority. Mr.

Stricklett offered that Rosebud possesses sufficient financial resources to support its operations in South Carolina.

With regard to management and technical capabilities, the Company's Application and Mr. Stricklett's testimony both evidence that Rosebud's management has extensive experience in telecommunications, regulatory matters, and accounting and finance. Mr. Stricklett also testified that Rosebud will operate in accordance with Commission rules, regulations, guidelines, and Commission orders. Mr. Stricklett offered that approval of Rosebud's Application would serve the public interest. Mr. Stricklett, on behalf of the Company, requests a waiver of 26 S.C. Code Ann. Regs. 103-610, since the Company's books are maintained in Texas. Further, the Company requests an exemption from record keeping policies that require maintenance of financial records in conformance with the Uniform System of Accounts ("USOA"). Rosebud maintains its books in accordance with Generally Accepted Accounting Principles ("GAAP").

After consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. Rosebud is organized as an LLC under the laws of the State of Texas and is authorized to do business as a foreign LLC in South Carolina by the Secretary of State.
2. Rosebud desires to operate as a provider of facilities-based and resold local and interexchange services in South Carolina.

3. We find that Rosebud possesses the managerial experience and capability to operate as a provider, on a facilities-basis and through resale, of local services and interexchange services in South Carolina.

4. We find, based on the financial statements submitted by the Company and the testimony at the hearing, that Rosebud possesses sufficient financial resources to provide the services as described in its Application and testimony.

5. We find that the issuance of a Certificate of Public Convenience and Necessity to Rosebud to operate on a facilities-basis and as a reseller of local exchange telecommunications and interexchange services in South Carolina would be in the best interest of the citizens of South Carolina by providing more innovative services.

6. Rosebud requests a waiver of 26 S.C. Code Ann. Regs. 103-610. The Commission finds Rosebud's requested waiver reasonable and understands the potential difficulty presented to Rosebud should the waiver not be granted. Further, we find that a waiver of 26 S.C. Code Ann. Regs. 103-610 is not contrary to the public interest. We also believe that exemption from the policies that would require the Company to keep its records under the USOA is reasonable.

7. The Commission finds that Rosebud does not intend to offer prepaid calling card services but, in the event that Rosebud in the future offers or provides such a service, Rosebud shall post a surety bond or certificate of deposit for prepaid calling card and long distance services in the amount of \$5,000 as required by the Commission.

8. In the event that the Company expands its authority and offers prepaid local exchange service, the Company will comply with South Carolina Regulation 103-

607 in that it will obtain a bond, irrevocable letter of credit, or certificate of deposit, or obtain an appropriate waiver of same.

9. The Company has the managerial, technical, and financial resources to provide the services as described in its Application. S.C. Code Ann. Section 58-9-280 (B)(1) (Supp. 2010).

10. The Commission finds that the Company's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. Section 58-9-280 (B)(3) (Supp. 2010).

11. The Commission finds that the Company will support universally available telephone service at affordable rates. S.C. Code Ann. Section 58-9-280 (B)(4) (Supp. 2010).

12. The Commission finds that services to be provided by the Company will meet the service standards of the Commission. S.C. Code Ann. Section 58-9-280 (B)(2) (Supp. 2010).

13. The Commission finds that the provision of local exchange service by the Company "does not otherwise adversely impact the public interest." S.C. Code Ann. Section 58-9-280(B)(5) (Supp. 2010).

14. Following execution of a Stipulation with intervenor South Carolina Telephone Coalition ("SCTC"), the SCTC withdrew its opposition to the Application.

CONCLUSIONS OF LAW

1. The Commission concludes that Rosebud possesses the managerial, technical, and financial resources to provide the telecommunications services as described in its Application.

2. The Commission concludes that Rosebud will participate in the support of universally available telephone service at affordable rates to the extent that Rosebud may be required to do so by the Commission.

3. The Commission concludes that Rosebud will provide services which will meet the service standards of the Commission.

4. The Commission concludes that approval of Rosebud's Application to provide intrastate telecommunications services within South Carolina will serve the public interest by providing for efficient use of existing telecommunications resources.

5. The Commission concludes that the provision of telecommunications service by Rosebud will not adversely impact the public interest.

6. The Commission concludes that the issuance of the authority to provide intrastate local exchange and interexchange telecommunications services as requested by Rosebud and as set forth in its Application and Mr. Stricklett's testimony is in the best interests of the citizens of the State of South Carolina.

7. The Commission concludes that a Certificate of Public Convenience and Necessity should be granted to Rosebud to provide local exchange telecommunications services and intrastate interexchange telecommunications services.

8. The Commission adopts a rate design for Rosebud for its residential interexchange services which includes maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. *In Re: Application of GTE Sprint Communications Corporation, etc.*, Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

9. Rosebud shall not adjust its residential interexchange rates for end-users below the approved maximum level without notice to the Commission and to the public. Rosebud shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. *In Re: Application of GTE Sprint Communications, etc.*, Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for residential interexchange services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. § 58-9-540 (Supp. 2010).

10. The Commission concludes that Rosebud's intrastate interexchange business telecommunications services shall be regulated in accordance with the principles and procedures established for alternative regulation of business service offerings set out

in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. The Commission has previously granted this “alternative regulation” to competitive intrastate interexchange carriers operating within South Carolina, and the Commission concludes that the competitive marketplace requires the Commission to allow this flexible regulation to those carriers which request it. Specifically, the Commission-approved alternative regulation allows business service offerings, including consumer card services and operator services, to be subject to a relaxed regulatory scheme identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C.

However, pursuant to Order No. 2001-997 (Docket No. 2000-407-C), this Commission has modified alternative regulation by the re-imposition of rate caps with regard to certain “operator-assisted calls” where a customer uses a local exchange carrier’s calling card to complete calls from locations which have not selected that local exchange carrier as the toll provider. Order No. 2001-997, dated November 8, 2001, imposed a maximum cap of \$1.75 for operator surcharges for such calls, and a maximum cap of \$0.35 related to the flat per-minute rate associated with these calls. Under this relaxed regulatory scheme, tariff filings for business services shall be presumed valid upon filing. If an investigation of a particular tariff filing is instituted within seven (7) days of the filing date, the tariff filing will then be suspended until further Order of the Commission. If an investigation is instituted on a particular tariff filing, notice of the investigation will be provided to the person or entity making the tariff filing and to the Commission. The notice is timely if dated within seven (7) days of the filing date.

11. The Commission concludes the Company's local exchange telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 98-165 in Docket No. 97-467-C. Specifically, the Commission adopts for the Company's competitive intrastate local exchange services a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels approved by the Commission. Further, the Company's local exchange service tariff filings are presumed valid upon filing. An investigation of the tariff filing may be instituted within thirty (30) days of the tariff filing, in which case the tariff filing would be suspended pending further Order of the Commission. If an investigation is instituted on a particular tariff filing, notice of the investigation will be provided to the person or entity making the tariff filing and to the Commission. The notice is timely if dated within thirty (30) days of the filing date. Further, any such tariff filings will be subject to the same monitoring process as similarly situated local exchange carriers.

12. We conclude that Rosebud's request for waiver of 26 S.C. Code Ann. Regs. 103-610 should be granted, since strict compliance with the regulation potentially causes undue hardship on that Company. We also grant exemption from the policies requiring the use of USOA.

13. The Stipulation with the SCTC should be approved.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

1. A Certificate of Public Convenience and Necessity should be granted to Rosebud to provide intrastate interexchange services as a facilities-based carrier and through the resale of services authorized for resale by tariffs of carriers approved by the Commission, as well as to provide facilities-based and resold local exchange telecommunications services within the State of South Carolina.

2. The Company's rate designs for its products shall conform to those designs described in Conclusions of Law above.

3. The Company shall file, if it has not already done so by the date of issuance of this Order, its revised long distance tariffs. The revised tariffs should be electronically filed in a text searchable PDF format using the Commission's DMS System (<http://dms.psc.sc.gov>). An additional copy should be sent via email to etariff@psc.sc.gov to be included in the Commission's ETariff System (<http://etariff.psc.sc.gov>). Future revisions to the tariffs should be made using the ETariff System. The revised tariffs shall be consistent with the findings of this Order and the Settlement Agreement, and shall be consistent with the Commission's Rules and Regulations, and shall be filed as stated within 30 days of receipt of this Order.

4. The Company's service is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.

5. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

6. Rosebud shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If Rosebud changes underlying carriers, it shall notify the Commission and ORS in writing.

7. With regard to the origination and termination of toll calls within the same LATA, Rosebud shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dialing parity rules established by the FCC pursuant to the Telecommunications Act of 1996 (47 C.F.R. § 51.209). Specifically, Rosebud shall comply with the imputation standard as adopted by Order No. 93-462 and more fully described in paragraph 4 of the Stipulation and Appendix B approved by Order No. 93-462.

8. Rosebud shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, Rosebud shall keep financial records on an intrastate basis for South Carolina to comply with the annual report and gross receipts filings. The proper form for filing annual financial information can be found at the Commission's website at the ORS's website at www.regulatorystaff.sc.gov. The title of this form is "Telecommunications Company

Annual Report.” This form shall be utilized by the Company to file annual financial information with the Commission and ORS and shall be filed no later than **April 1st**.

Commission gross receipts forms are due to be filed with the Commission and ORS no later than **August 31st** of each year. The proper form for filing gross receipts information can be found at the ORS website at www.regulatorystaff.sc.gov, and the appropriate form is entitled “Gross Receipts Form.”

Each telecommunications company certified in South Carolina is required to file annually with the ORS the Intrastate Universal Service Fund (“USF”) worksheet, which may be found on the ORS’s website at www.regulatorystaff.sc.gov. This worksheet provides ORS information required to determine each telecommunications company’s liability to the State USF fund. The Intrastate USF worksheet is due to be filed annually no later than **July 1st** with the Commission and ORS.

9. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests, and repairs. In addition, the Company shall provide to the Commission and ORS in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. Rosebud shall file the names, addresses, and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The “Authorized Utility Representative Information” form can be found at the Commission’s website at www.psc.sc.gov/forms.asp; this form shall be utilized for the provision of this

information to the Commission and ORS. Further, the Company shall promptly notify the Commission and ORS in writing if the representatives are replaced.

10. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

11. At the hearing, Rosebud requested a waiver of 26 Code Ann. Regs. 103-610 (Supp. 2010), which requires that records required by the Commission's Rules and Regulations be maintained in South Carolina. The Commission finds Rosebud's requested waiver reasonable and understands the potential difficulty presented to Rosebud should the waiver not be granted. The Commission therefore grants the requested waiver. However, Rosebud shall make available its books and records at all reasonable times upon request by the Office of Regulatory Staff, and Rosebud shall promptly notify the Commission and ORS if the location of its books and records changes.

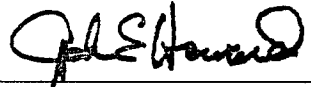
12. Rosebud also requests that it be exempt from record keeping policies that require a carrier to maintain its financial records in conformance with the Uniform System of Accounts. The USOA was developed by the FCC as a means of regulating telecommunications companies subject to rate base regulation. As a competitive carrier, Rosebud maintains its book of accounts in accordance with Generally Accepted Accounting Principles. GAAP is used extensively by interexchange carriers and other competitive telecommunications carriers. Accordingly, Rosebud requests an exemption from the USOA requirements. We grant the Company's request for the reasons stated above.

13. In the event that Rosebud offers or provides any service that would implicate Title 23, Chapter 47 of the South Carolina Code Annotated, Rosebud is required to comply with that Title and Chapter, which governs the establishment and implementation of a “Public Safety Communications Center,” which is more commonly known as a “911” system or “911 service.” Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, in the event Rosebud offers or provides the appropriate services, the Commission hereby instructs Rosebud to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating. Contact with the appropriate 911 service authorities is to be made before beginning local telephone service in South Carolina. Accompanying this Order is a memorandum from the State 911 Office of the Office of Research & Statistics of the South Carolina Budget and Control Board. This memorandum provides information about contacting County 911 Coordinators. By this Order and prior to providing local telephone services in South Carolina, Rosebud shall contact the 911 coordinator in each county (and city where the city has its own 911 system) and shall provide information regarding the Company’s operations as required by the 911 system.

14. The Stipulation between Rosebud and the SCTC is hereby approved.

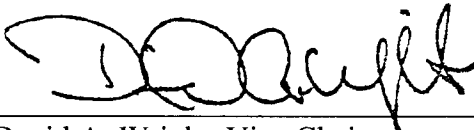
15. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



John E. Howard, Chairman

ATTEST:



David A. Wright, Vice Chairman
(SEAL)

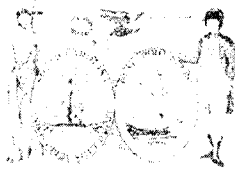
STATE OF SOUTH CAROLINA
State Budget and Control Board

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Bobby Bowers
DIRECTOR

August 2, 2004

To: Telephone Companies New to South Carolina

In an effort to continue providing quality emergency services to the citizens of South Carolina, the State 911 Office requests that before beginning telephone services in a county, you contact the 911 Coordinator in that county. This will allow both parties to obtain important information about providing 911 services in that county. If you have already begun services, then contact the coordinator as soon as possible.

A list of County 911 Coordinators can be found on the South Carolina E911 homepage at www.ors.state.sc.us/digital/E-911.ASP. If you have any questions related to 911 in South Carolina, you may contact E911 Coordinations at the Office of Research and Statistics at 803-734-3883. The person responsible for this can also be found on the 911 homepage. Please be aware that some cities may have their own E911 systems, these are also listed on the 911 homepage. These city coordinators will need to be contacted in addition to the county coordinators.

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BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

Docket No. 2011-256-C

Re: Application of Rosebud Telephone, LLC for a)
Certificate of Public Convenience and Necessity)
to Provide Resold and Facilities-based Local)
Exchange Telecommunications Services in the)
State of South Carolina)
_____)

STIPULATION

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and Rosebud Telephone, LLC ("Rosebud Telephone") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, SCTC does not oppose Rosebud Telephone's Application. SCTC and Rosebud Telephone stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to Rosebud Telephone, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.

2. Rosebud Telephone stipulates and agrees that any Certificate which may be granted will authorize Rosebud Telephone to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.

3. Rosebud Telephone stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.

4. Rosebud Telephone stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless and until Rosebud Telephone provides such rural incumbent LEC and the Commission with

written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, Rosebud Telephone acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. Rosebud Telephone stipulates and agrees that, if Rosebud Telephone gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, and either (a) the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law within such 30-day period, or (b) the Commission institutes a proceeding of its own, then Rosebud Telephone will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. Rosebud Telephone acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs and Rosebud Telephone, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

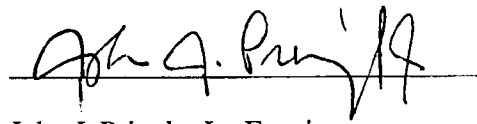
8. Rosebud Telephone agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

9. Rosebud Telephone hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

AGREED AND STIPULATED to this 18th day of August,
2011.

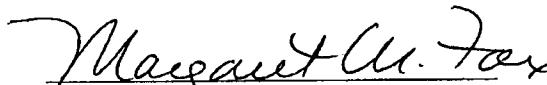
Rosebud Telephone, LLC

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ATTACHMENT A

South Carolina Telephone Coalition Member Companies
for Purposes of Local Service Stipulation

Chesnee Telephone Company

Chester Telephone Company

Farmers Telephone Cooperative, Inc.

Ft. Mill Telephone Company

Home Telephone Company, Inc.

Lancaster Telephone Company

Lockhart Telephone Company

McClellanville Telephone Company

Norway Telephone Company

Palmetto Rural Telephone Cooperative, Inc.

Piedmont Rural Telephone Cooperative, Inc.

Pond Branch Telephone Company

Ridgeway Telephone Company

Rock Hill Telephone Company

Sandhill Telephone Cooperative, Inc.

St. Stephen Telephone Company

West Carolina Rural Telephone Cooperative, Inc.

Williston Telephone Company